

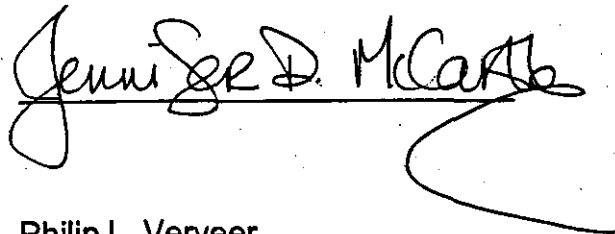
Compelling the Debtors to pay their FY 2005 regulatory fees would result in a significant financial hardship that would hinder the Debtors' restructuring efforts. Grant of the instant waiver and deferral request, however, would allow the Debtors to (i) continue their rehabilitation process; (ii) reorganize their business operations; (iii) remain a competitor in the satellite services market; and (iv) implement the Plan of Reorganization. Reorganization will also help preserve and revitalize Loral Skynet, a division of Debtor Loral SpaceCom Corporation and a leading international satellite communications services provider, and Space Systems/Loral, Inc., a world-class leader in the design and manufacture of satellites and satellite systems for commercial and government applications, and benefit U.S. satellite manufacturing competition. As such, waiver and deferral of the fees will promote the public interest by allowing the Debtors to conserve their limited financial resources and continue to provide service to their customers as well as protecting the interests of the Debtors' estates and creditors.⁹

Accordingly, the Debtors respectfully request a waiver of the \$255,711.69 in regulatory fees that would be owed for FY 2005. The Debtors also request that the Commission defer payment of these fees or any fees owed above the waiver granted, consistent with the Bankruptcy Code and the disposition of the Bankruptcy Court or, if the waiver request is denied, for at least an additional six (6) months past the

⁹ See e.g., Letter to Shirley S. Fujimoto, McDermott, Will & Emery from Mark A. Reger, Chief Financial Officer, Federal Communications Commission, Petition for Waiver of Filing Fees, Fee Control No. 0201168994515001 (March 25, 2002).

September 7, 2005 due date. This waiver request does not include the fees or forms which the Debtors would otherwise be required to submit.¹⁰

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Jennifer D. McCarthy", with a long, sweeping flourish extending from the bottom right.

Philip L. Verveer
Jennifer D. McCarthy
McLean Sieverding

Willkie Farr & Gallagher LLP
1875 K Street, N.W.
Washington, D.C. 20006
(202) 303-1000

Counsel for the Debtors

August 18, 2005

¹⁰

47 C.F.R. § 1.1166(c).

FEDERAL COMMUNICATIONS COMMISSION
Washington, D. C. 20554

OFFICE OF
MANAGING DIRECTOR

November 9, 2005

Christine M. Gill, Esq.
McDermott Will & Emery, LLP
600 Thirteenth Street, N.W.
Washington, D.C. 20005-3096

Re: Request for Refund of Filing Fees
ONEOK, Inc.
Fee Control No. 0410018130151001

Dear Ms. Gill:

This is in response to your request (dated April 7, 2005) filed on behalf of ONEOK, Inc. (ONEOK) for a refund of the filing fees in connection with requests for waiver of the electronic filing requirements for trunked (YO) and conventional (GO) 800 MHz private industrial/land transportation (I/LT) services under section 1.913(b) of the Commission's rules, 47 C.F.R. §1.913(b), associated with a transfer of control application filed by CCE Holdings, LLC (CCE Holdings) and ONEOK.¹ Our records reflect that you paid the \$3,255.00 application fees at issue here. Your request is granted.

You recite that the "corporate transaction underlying this transfer of control involved the sale of stock from CCE Holdings . . . to ONEOK" which "was consummated on the same day that CCE Holdings acquired said stock from Enron Corp., a debtor in possession (Enron), and certain of its subsidiaries." You explain that "the sale of stock resulted in a substantive transfer of control from CCE Holdings to ONEOK, subsequent to the transfer of control from Enron to CCE Holdings, of certain FCC licenses held in the . . . trunked (YO) and conventional (GO) 800 MHz private industrial/land transportation (I/LT) services." You state that on September 30, 2004, CCE Holdings and ONEOK filed an FCC Form 603 transfer of control application, along with requests for waivers of section 1.913(b) of the rules to allow them to file the Form 603 manually, rather than electronically via the Universal Licensing System (ULS). You state that "the applicants were unable to file the application electronically through the ULS because they did not yet hold the relevant licenses and were unsuccessful in their attempts to secure access to the ULS password of the existing licensee." You assert that at the time the transfer application was filed, "the applicants were unable to definitely determine whether mandatory electronic filing was required for [the] transfer of control relating to the YO and GO licenses." You claim that although a public notice released on March 6, 2001 "indicated that electronic filing was optional for these services, . . . [s]ection 1.913(d)

¹ "YO" and "GO" are two-letter service code designators used to track applications and licenses in the Commission's Universal Licensing System.

appeared to suggest otherwise.”² You state that after the corporations filed the section 1.913(d) waiver requests, Commission staff “confirm[ed] . . . that the applicants were not required to seek waiver for manual filing of the transfer control application with respect to the YO and GO licenses, as specified in [the 2001 Public Notice].” You maintain that although “it is now clear . . . that the applicants were not required to seek waiver for manual filing of these licenses[,]” the applicants requested a section 1.913(d) waiver “[b]ecause of the time-sensitive nature of the transactions[,] . . . the confusion in rules[,]” and “out of an abundance of caution.” You state that “the Commission granted the waiver request and consented to the transfer of control on November 12, 2004.”³

The Commission has discretion to waive filing fees upon a showing of good cause and a finding that the public interest will be served thereby.⁴ We construe our waiver authority under section 8 of the Communications Act, 47 U.S.C. §158(d)(2), narrowly and will grant waivers on a case-by-case basis to specific applicants upon a showing of “extraordinary and compelling circumstances.”⁵

ONEOK explains that it was uncertain as to whether electronic filing was required for the relevant licenses because section 1.913(d) only exempts licensees in shared services from electronic filing,⁶ even though the subsequent 2001 Public Notice makes electronic filing optional for the services in question. Section 1.913(d) does appear to require electronic filing, and it is therefore plausible that ONEOK reasonably believed it needed to request a waiver “out of an abundance of caution” at the time it filed its applications. In these unusual circumstances, we find it is appropriate to refund the fees associated with the request for waiver of electronic filing. Accordingly, your request is granted.

² See *Public Notice*, 16 FCC Rcd 5261, 5266 (Mar. 6, 2001) (*2001 Public Notice*). Section 1.913(d)(1), 47 C.F.R. §1.913(d)(1), lists services for which ULS Forms 601, 603, and 605 may be filed manually or electronically.

³ See *Public Notice*, Wireless Telecommunications Bureau Assignment of License Authorization Applications, Transfer of Control of Licensee Applications, De Facto Transfer Lease Applications and Spectrum Manager Lease Notifications Action, 2004 WL 2609679 (Nov. 17, 2004).

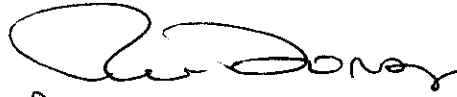
⁴ See 47 U.S.C. §158(d)(2); 47 C.F.R. §1.1117(a); *Establishment of a Fee Collection Program to Implement the Provisions of the Consolidated Omnibus Budget Reconciliation Act of 1985*, 5 FCC Rcd 3558, 3572-73 (1990).

⁵ See *Establishment of a Fee Collection Program to Implement the Provisions of the Consolidated Omnibus Budget Reconciliation Act of 1985*, 2 FCC Rcd 947, 958, para. 70 (1987); *Sirius Satellite Radio, Inc.*, 18 FCC Rcd 12551 (2003).

⁶ See CCE Holdings, LLC and ONEOK, Inc. Request for Waiver of Federal Communications Commission Rule Section 1.913(b) at 4, n.5 (Sept. 28, 2004).

A check made payable to the maker of the original check, and drawn in the amount of \$3,255.00, will be sent to you at the earliest practicable time. If you have any questions concerning this letter, please contact the Revenue and Receivables Operations Group at (202) 418-1995.

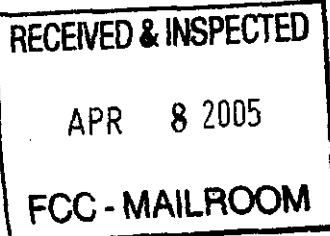
Sincerely,

A handwritten signature in black ink, appearing to read "Mark A. Reger", with a stylized flourish at the end.

Mark A. Reger
Chief Financial Officer

McDermott Will & Emery

Boston Brussels Chicago Düsseldorf London Los Angeles Miami Milan
Munich New York Orange County Rome San Diego Silicon Valley Washington, D.C.



Christine M. Gill
Attorney at Law
cgill@mwe.com
202.756.8283

April 7, 2005

04/00/8/3015/001

BY HAND DELIVERY

Mr. Andrew S. Fishel
Managing Director
Federal Communications Commission
445 12th Street, SW, Room 1A625
Washington, DC 20554

Re: ~~Waiver Fee Refund, Application File No. 0001893596~~

Dear Mr. Fishel:

Pursuant to Section 1.1113 of the Federal Communications Commission's ("Commission" or "FCC") Rules,¹ McDermott Will & Emery LLP ("McDermott"), as Payer on behalf of ~~ONEOK~~ ~~ONEOK~~, respectfully requests a refund of the fees paid for Rule Waiver requests associated with transfer of control application File No. 0001893596 (Attachment A), in the amount of \$3,255.00.

The corporate transaction underlying this transfer of control involved the sale of stock from CCE Holdings, LLC, a Delaware limited liability company ("CCE Holdings"), to ONEOK, an Oklahoma corporation. The sale of stock to ONEOK was consummated on the same day that CCE Holdings acquired said stock from Enron Corp., a debtor in possession and an Oregon corporation ("Enron"), and certain of its subsidiaries.

As explained in the transfer of control application, the sale of stock resulted in a substantive transfer of control from CCE Holdings to ONEOK, subsequent to the transfer of control from Enron to CCE Holdings, of certain FCC licenses held in the common carrier microwave ("CF") service and the trunked ("YO") and conventional ("GO") 800 MHz private industrial/land transportation (I/LT) services.

On September 30, 2004, CCE Holdings and ONEOK ("applicants") filed the application for approval of transfer of control via FCC Form 603. The application was accompanied by a request for waiver of Section 1.913(b)² of the Commission's Rules to allow them to file the FCC Form 603 manually rather than electronically through the Universal Licensing System ("ULS"). According to the waiver request, the applicants were unable to file the application electronically

¹ 47 C.F.R. § 1.1113.

² 47 C.F.R. § 1.913(b).

Mr. Andrew S. Fishel

April 7, 2005

Page 2

through ULS because they did not yet hold the relevant licenses and were unsuccessful in their attempts to secure access to the ULS password of the existing licensee.

At the time the transfer application was filed, the applicants were unable to definitely determine whether mandatory electronic filing was required for transfer of control relating to the YO and GO licenses. As noted in the waiver request, FCC Public Notice DA 01-580 (released March 6, 2001) (Attachment B), indicated that electronic filing was optional for these services, although Commission Rule Section 1.913(d) appeared to suggest otherwise. Accordingly, the applicants requested waiver for these licenses out of an abundance of caution.

On September 30, 2004, in conjunction with the transfer of control application, ONEOK, with McDermott listed as the Payer, submitted the attached FCC Form 159 Remittance Advice (Attachment C), providing payment in the total amount of \$7,190.00. Of this amount, \$3,255.00 was associated with the request for waiver of electronic filing of those licenses in the GO and YO services (21 licenses multiplied by \$155.00). As indicated in the 2004 Wireless Telecommunications Bureau Fee Filing Guide, there was no fee for Rule Waiver requests associated with the CF licenses.

On October 13, 2004, the FCC issued a Public Notice, Report 1962, showing that transfer of control application, File No. 0001893596, was accepted for filing on September 30, 2004 (Attachment D). On November 17, 2004, the FCC issued a Public Notice, Report 1994, indicating that the Commission granted the waiver request and consented to the transfer of control on November 12, 2004 (Attachment E). The transaction was consummated on November 17, 2004, and notice of the consummation was filed on December 14, 2004 (Attachment F).

Because of the time-sensitive nature of the transactions and the confusion in rules, the applicants requested a waiver of any mandatory electronic filing requirements associated with the YO and GO licenses. It is now clear, however, that the applicants were not required to seek waiver for manual filing for these licenses. Subsequently, McDermott was able to confirm with ULS support staff, located at 1270 Fairfield Road, Gettysburg, PA17325-7245, that the applicants were not required to seek waiver for manual filing of the transfer control application with respect to the YO and GO licenses, as specified in FCC Public Notice DA 01-580. Therefore, it was not required to submit payment for Rule Waiver requests for those licenses, and a refund is warranted.

WHEREFORE, THE PREMISES CONSIDERED, the undersigned respectfully requests the Commission to grant a refund of the Waiver Rule fees paid in the amount of \$3,255.00.

Very truly yours,


Christine M. Gill

Attachments

Adams

FEDERAL COMMUNICATIONS COMMISSION
Washington, D. C. 20554

OCT 25 2005

OFFICE OF
MANAGING DIRECTOR

Kalpak S. Gude
Vice President &
Associate General Counsel
1801 K Street, N.W.
Suite 440
Washington, D.C. 20006

Re: PanAmSat Corporation
Request for Refund of Filing Fees
Fee Control No. 00000RROG-03-091

Dear Mr. Gude:

This is in response to the request for a refund filed by PanAmSat Corporation (PanAmSat) of \$935,495.00 for withdrawn V-band satellite applications¹ and a subsequent letter jointly filed by Hughes Network Systems LLC (HNS) and PanAmSat, in which PanAmSat seeks a reduced refund of \$765,405 (HNS/PanAmSat Joint Proposal).² PanAmSat paid the fees in 1997 in connection with its application to launch and operate its V-Stream system, a global geostationary orbit (GSO) system comprised of 12 fixed satellite service (FSS) space stations using the V-band spectrum at 11 orbit locations. Your request for a reduced refund is granted.

In the first letter, PanAmSat states that Section 1.1113(a)(4) of the Commission's rules entitles it to the requested refund. This rule states in relevant part that "[t]he full amount of any fee will be returned or refunded ... [w]hen the Commission adopts new rules that nullify applications already accepted for filing, or a new law or treaty would render useless a grant or other positive disposition of the application." 47 CFR § 1.1113(a)(4). You state that "[p]ursuant to this rule, the Commission has awarded refunds to applicants that withdrew their applications following the adoption of rules materially altering the processing, construction, or operational requirements of a particular service."³ Here, you state that provisions adopted in the Amendment of the Commission's Space Station Licensing Rules and Policies, *First Report and Order and Further Notice of Proposed Rulemaking*, 18 FCC Rcd 10,760 (2003) (*Space Station Licensing Reform Order* or *Order*) trigger Section 1.1113(a)(4) because they "rewrote the book for FSS space station licensing ... prevent[ing] PanAmSat from obtaining a license

¹ Letter from Henry Goldberg and Joseph A. Godles, Attorneys for PanAmSat, to Andrew S. Fishel (July 8, 2003). (Goldberg Letter). PanAmSat withdrew its V-band applications simultaneously with its request for refund.

² Letter from Dean Manson, Vice President, General Counsel and Secretary, Hughes Network Systems LLC (HNS), and Kalpak S. Gude, Vice President & General Counsel, PanAmSat Corporation (PanAmSat) (September 12, 2005) (HNS/PanAmSat Joint Proposal). Hughes bought PanAmSat, and the Commission approved the transfer of control in an Order adopted April 4, 1997, before Hughes and PanAmSat filed their V-band applications. See Hughes Communications and Affiliated Companies, *Order and Authorization*, 12 FCC Rcd 7534 (1997). We address HNS's specific refund request in a separate letter, which we are releasing simultaneously with this one.

³ *Id.* at 2.

for the system it has proposed and subject[ing] PanAmSat to new risks that carry severe consequences.”⁴ Specifically, you cite to a new rule that “limit[s] applicants to five space stations per frequency band” and new “‘attribution’ criteria [under which] ... PanAmSat and HNS would have to divide the quota on five space station applications between them.”⁵ You also state that the new bond-posting and milestone requirements, and related penalties, “subject [PanAmSat] to financial, business, and regulatory risks that did not exist when PanAmSat filed its application.”⁶

In the HNS/PanAmSat Joint Proposal, you note that on March 10, 2005, “the Managing Director determined that a refund was due for four of SES Americom’s nine withdrawn GSO slot applications in the V/Ku-band because SES could no longer prosecute those four applications in light of a recent Commission decision that limited SES to five pending applications for GSO slots in a given frequency band”⁷ and stated that “the same rationale applies in this case.”⁸ Specifically, you state that “the rules adopted as part of the *First Space Station Licensing Reform Order* limited PanAmSat and HNS, collectively, to prosecuting five requests for GSO orbit slots, and one NGSO-like satellite system request, in the V-band.... The only outstanding question, then, should be how to allocate the five GSO-slot application limit between HNS and PanAmSat for purposes of processing their pending application filing fee refund requests.”⁹

The Joint Proposal states that HNS and PanAmSat “have agreed to allocate that limit between themselves in proportion to the number of V-band GSO slot requests they had pending at the time: (i) HNS had requested sixteen GSO slots (and one NGSO-like satellite system) and (ii) PanAmSat had sought eleven GSO slots.”¹⁰ Accordingly, “applying [11/27] of the five-slot limit to ... PanAmSat ... yields an allocation of two ‘permissible’ applications for GSO slots to PanAmSat ... [and] under the *SES Americom* precedent, ... PanAmSat is entitled to a refund of all of the V-band application filing fees that it paid, less the filing fees attributable to the V-band applications that it could have continued to prosecute – two GSO slots.”¹¹ Thus, you state that “[i]n PanAmSat’s case, the amount due is ... \$765,405 (total filing fees paid of \$935,495, less the \$170,090 in filing fees attributable to three GSO slots).”¹²

Section 1.1113(a)(4) provides that the Commission will issue refunds for application fees “when the Commission adopts new rules that nullify applications already accepted for filing, or new law or treaty would render useless a grant or other positive disposition of the application.” In establishing the fee collection program, the Commission elaborated on the meaning of this provision:

⁴ *Id.* at 2-3.

⁵ *Id.* at 3.

⁶ *Id.*

⁷ HNS/PanAmSat Joint Proposal at 1.

⁸ *Id.*

⁹ *Id.* You state that the “application limit applied collectively to PanAmSat and HNS because, at that time, both entities were controlled by a common entity: Hughes Electronic Corporation ...” *Id.*

¹⁰ *Id.* at 1-2.

¹¹ *Id.* at 2.

¹² *Id.*

Section 1.1111(a)(4) [the earlier version of Section 1.1113(a)(4)] is intended to apply in those rare instances where the Commission creates a new regulation or policy, or the Congress and President approve a new law or treaty, that would make the grant of a pending application a *legal nullity*. We believe that this rare event would justify the return of an application because the action of a government entity would make the requested action *impossible* without regard to the merits of that application.

Establishment of a Fee Collection Program to Implement the Provisions of the Consolidated Omnibus Budget Reconciliation Act of 1985, *Report and Order*, 2 FCC Rcd. 947, para. 17 (1987) (*1987 Fee Order*) (*emphases added*). See also *Ranger Cellular and Miller Communications, Inc.*, 348 F.3d 1044 (D.C. Cir. 2003), (upholding a Wireless Telecommunications Bureau decision citing this language).

The Commission adopted the *Space Station Licensing Reform Order* in May 2003 to put in place licensing procedures that would allow faster service to the public, while maintaining adequate safeguards against speculation.¹³ In the *Order*, the Commission adopted two new satellite space station licensing procedures: (i) a modified processing round procedure for new non-geostationary satellite orbit (NGSO) satellite system applications, and for geostationary satellite orbit (GSO) mobile satellite service (MSS) satellite system applications (together, NGSO-like applications);¹⁴ and (ii) a new first-come, first-served approach for new GSO satellite applications other than MSS satellite systems (GSO-like applications).¹⁵ The Commission adopted additional provisions intended to make the satellite application process more efficient, including setting a required bond amount (\$5 million for GSO-like licensees and \$7.5 million for NGSO-like licensees)¹⁶ and adding additional milestone requirements for all satellite services.¹⁷ To prevent frivolous or speculative applications, the *Order* limited the number of applications and unbuilt satellite systems that any one applicant can have pending in a frequency band to five GSO orbit locations and one NGSO satellite system.¹⁸ The *Order* also provided for an attribution rule which, among other things, required that if an applicant, or the subsidiary of an applicant, had a controlling interest in another applicant, the pending applications and unbuilt satellites of both applicants would be counted together for purposes of the limits.¹⁹ The Commission decided further to apply certain of its new rules to some already-pending satellite applications, including those in the V-band.

¹³ *Space Station Licensing Reform Order*, 18 FCC Rcd at para. 279.

¹⁴ *Id.* at paras. 48-55. See also Public Notice, "International Bureau Invites Applicants to Amend Pending V-Band Applications," DA 04-234 at 2 (January 29, 2004) (January 29, 2004 PN). Under this approach, the Commission announces a cut-off date for a processing round, reviews each application filed in the processing round to determine whether the applicant is qualified to hold a satellite license, and divides the available spectrum equally among the qualified applicants.

¹⁵ *Space Station Licensing Reform Order* at paras. 71-159. Under the first-come, first-served approach, applications are placed in a single queue and reviewed in the order in which they are filed.

¹⁶ *Id.* at para. 168.

¹⁷ *Id.* at paras. 173-208.

¹⁸ *Id.* at paras. 226-233. See also 47 C.F.R. § 25.159 and the Erratum to the Amendment of the Commission's Space Station Licensing Rules and Policies, 18 FCC Rcd. 15,306 (clarifying that GSO-like applicants must specify only one orbit location in each application on a going-forward basis) (released July 23, 2003).

¹⁹ *Id.* at para. 237.

LAW OFFICES
GOLDBERG, GODLES, WIENER & WRIGHT
1229 NINETEENTH STREET, N.W.
WASHINGTON, D.C. 20036-2413

FILE COPY

HENRY GOLDBERG
JOSEPH A. GODLES
JONATHAN L. WIENER
MICHAEL A. McCOIN
BRITA D. STRANDBERG
HENRIETTA WRIGHT
THOMAS G. GHERARDI, P.C.
COUNSEL

00000RROG-03-091

(202) 428-4900
TELECOPIER:
(202) 428-4912

e-mail:
general@g2w2.com
website: www.g2w2.com

July 8, 2003

BY HAND

Andrew S. Fishel
Managing Director
Federal Communications Commission
445 12th Street, SW
Washington, D.C. 20554

RECEIVED

JUL - 8 2003

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

Re: **PanAmSat Corporation**
File Nos. SAT-LOA-19970926-00129 through 00139
Request for Refund of Filing Fees

Dear Mr. Fishel:

Pursuant to Section 1.1113(a)(4) of the Commission's rules, PanAmSat Corporation ("PanAmSat"), by its attorneys, hereby requests a refund in the amount of \$935,495.00 for filing fees associated with the above-referenced space station applications.¹ A letter withdrawing the applications is being filed concurrently with this refund request.

On September 26, 1997, PanAmSat submitted an application to the Commission requesting authority to launch and operate a global geostationary orbit ("GSO") system (the "V-Stream system") comprised of twelve fixed satellite service ("FSS") space stations using the 50/40 GHz band ("V-band") at eleven orbital locations. The total filing fee PanAmSat paid for its V-Stream system application was \$935,495.00 (\$85,045 per orbital location).² The Commission never acted on the application and, as discussed below, rule changes that the Commission recently adopted have fundamentally altered the ground rules for PanAmSat's proposed system. The Commission has held in

¹ These applications formerly were assigned file numbers 162 through 172-SAT-P/LA-97 under the International Bureau's previous file numbering system.

² Attached to this request are copies of the date-stamped Form 159 (Remittance Advice) and the check submitted with PanAmSat's V-Stream system application.

RECEIVED

JUL - 8 2003

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

comparable circumstances that applicants are entitled to dismiss their applications and receive a fee refund. PanAmSat seeks a refund on the basis of these precedents.

Section 1.1113(a)(4) of the Commission's rules entitles an applicant to a full refund or return of its filing fees whenever the Commission adopts new rules that "nullify" a pending application, or when new law renders useless the grant of the application.³ Pursuant to this rule, the Commission has awarded refunds to applicants that withdrew their applications following the adoption of rules materially altering the processing, construction, or operational requirements of a particular service.⁴

Recently, the Commission adopted a Report and Order that rewrote the book for FSS space station licensing. The rules that the Commission adopted in the Report and Order, which apply to new and pending applications, prevent PanAmSat from

³ 47 C.F.R. § 1.1113(a)(4). The Commission has explained that this rule "is intended to apply in those rare instances where the Commission creates a new regulation or policy, or the Congress and President approve a new law or treaty, that would make the grant of a pending application a legal nullity," and in that event "the return of an application [is justified] because the action of a government entity would make the requested action impossible without regard to the merits of that application." *In re Establishment of a Fee Collection Program to Implement the Provisions of the Consolidated Omnibus Budget Reconciliation Act of 1985*, Report and Order, 2 FCC Rcd 947, 950 (1987).

⁴ See, e.g., *In re Streamlining of Radio Technical Rules in Parts 73 and 74*, First Report and Order, 14 FCC Rcd 5272, 5282 n.51 (1999) (allowing AM, noncommercial FM, and FM translator applicants whose major change applications are reclassified as minor change applications under new rules to seek refunds for the difference between fees paid for major and minor change application processing); *In re Amendment of Part 90 to Provide for the Use of the 220-222 MHz Band by the Private Land Mobile Radio Service*, Memorandum Opinion and Order, 7 FCC Rcd 4484, 4489 n.66 (1992) (allowing noncommercial applicants for nationwide licenses in the 220-222 MHz band to obtain a refund for applications withdrawn following the adoption of more stringent construction and operational standards for the band); *In re Amendment of Part 90 to Provide for the Use of the 220-222 MHz Band by the Private Land Mobile Radio Service*, Order, 8 FCC Rcd 4161, 4164 n.28 (1993) (allowing any applicant seeking to withdraw its application to obtain a refund of its filing fees prior to the effective date of new rules imposing significant changes on entry criteria); *In re Amendment of Parts 1, 2, and 21 Governing the Use of the Frequencies in the 2.1 and 2.5 GHz Bands*, Report and Order, 8 FCC Rcd 1444, 1449 n.49 (1993) ("[I]f, in view of the numerous rule changes adopted in this proceeding, any applicant whose application is currently pending withdraws prior to the issuance of the public notice designating its application for random selection, its application filing fees will be refunded.").

Ms. Marlene H. Dortch, Secretary
July 8, 2002
Page 3

obtaining a license for the system it has proposed and subject PanAmSat to new risks that carry severe consequences.⁵

PanAmSat has proposed a V-band system comprised of twelve space stations. The new rules limit applicants to five space stations per frequency band,⁶ confining PanAmSat to a system less than half its original size.

A second rule change further constrains PanAmSat's system size. Under new "attribution" criteria that the Commission has adopted,⁷ PanAmSat's proposed V-band system would be combined for purposes of the five-application limit with V-band systems applied for by Hughes Network Systems, Inc. ("HNS") that, in the aggregate, are larger than PanAmSat's.⁸ Under the new rules, PanAmSat and HNS would have to divide the quota on five space station applications between them.

If PanAmSat were to continue prosecuting its application notwithstanding the downsizing in the permissible scope of its system, it would be subject to financial, business, and regulatory risks that did not exist when PanAmSat filed its application. It would be required to post a bond - the precise contours of which are the subject of a further notice of proposed rulemaking - in the amount of \$5 million per space station.⁹ If it went to the expense of posting the bond, it would then be subject to new, stricter milestone requirements.¹⁰ If it did not satisfy the milestones, the only consequence of which until now has been a loss of the license associated with the missed milestone, it would forfeit its bond¹¹ and be subject to a penalty that potentially could reduce its

⁵ See *In re Amendment of the Commission's Space Station Licensing Rules and Policies*, First Report and Order and Further Notice of Proposed Rulemaking, IB Docket No. 02-34, FCC 03-102, ¶¶ 229-33, 275-84 (rel. May 19, 2003) ("*Space Station Licensing Reform R&O*").

⁶ *Space Station Licensing Reform R&O*, Appendix B, Section 25.159.

⁷ *Space Station Licensing Reform R&O*, ¶¶ 234-239.

⁸ See Applications of HNS for authority to launch and operate: (1) a GSO system in the V and Ku bands, SAT-LOA-19970924-00087/88/89/90/91/92/93/94/95/96, SAT-AMD-20020722-00136/137/138/139/140/141/142/143/144/145; (2) a GSO system in the V and Ku bands, SAT-LOA-19970925-00119/120/121/122, SAT-AMD-20020722-00131/132/133/134; and (3) a GSO/NGSO FSS/MSS system in the V band, SAT-LOA-19970926-00126/140/141, SAT-AMD-20020722-00127/128/129. For reasons similar to those expressed herein, HNS has dismissed its V-band application and sought a filing fee refund. See letter, dated June 25, 2003, from John P. Janka, counsel for HNS, to Andrew S. Fishel, Managing Director, FCC.

⁹ *Space Station Licensing Reform R&O*, ¶¶ 167-172.

¹⁰ *Space Station Licensing Reform R&O*, ¶¶ 173-202.

¹¹ *Space Station Licensing Reform R&O*, ¶ 167.

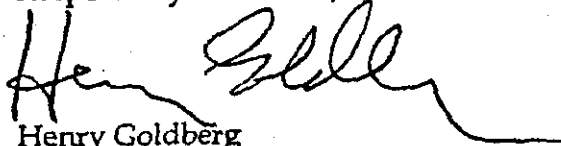
Ms. Marlene H. Dortch, Secretary
July 8, 2002
Page 4

authorized GSO application limit from five space stations per band to two.¹² Plainly these changes radically alter the risk and reward considerations that PanAmSat had before it when it filed its application six years ago.

Accordingly, and for the foregoing reasons, PanAmSat respectfully requests a full refund in the amount of \$935,495.00 for filing fees paid in connection with its eleven V-Stream system orbital locations. The Commission's filing fee rules and precedents support a refund, and basic fairness warrants one.¹³

Please direct any questions concerning this matter to the undersigned.

Respectfully submitted,

A handwritten signature in dark ink, appearing to read "Henry Goldberg", with a long horizontal flourish extending to the right.

Henry Goldberg
Joseph A. Godles
Attorneys for PanAmSat Corporation

¹² *Space Station Licensing Reform R&O*, ¶¶ 197-202.

¹³ In terms of fairness, it is noteworthy that PanAmSat's applications have not even been placed on public notice as accepted for filing. Cf. *Space Station Licensing Reform R&O*, ¶ 116 (under new processing rules, applicants will be permitted to dismiss their applications and obtain a refund of their filing fees). But see *id.* ¶ 282 (declining to extend this principle to applications already pending at the time the new rules were adopted).

FEDERAL COMMUNICATIONS COMMISSION

Washington, D. C. 20554

OCT 25 2005

OFFICE OF
MANAGING DIRECTOR

Mr. Alan Greager
Professional Antenna, Tower
and Translator Service
Post Office Box 1738
Montrose, Colorado 81401-1738

Re: Request for Waiver of
FY 2004 Regulatory Fee and Late Fee
Fee Control No. 00000RROG-05-057

Dear Mr. Greager:

This is in response to your letter dated June 26, 2005 requesting waiver of the fiscal year (FY) 2004 regulatory fee for translator stations K228AT, K232AR and K272AL, which are controlled by the Professional Antenna, Tower and Translator Service (PATTs) of Montrose, Colorado. Your request for waiver of the FY 2004 regulatory fees and associated late fee is denied.

In support of your request, you state that the translator stations are operated without advertising support and without support from a commercial broadcasting station. You further state that the stations are dependent on support from PATTs and the communities of Green River, Utah, and Moab, Utah.

In implementing the regulatory fee program, the Commission stated that it would waive its regulatory fees for any community-based translator station upon a showing that the station:

(1) is not licensed to, in whole or in part, and does not have common ownership with, the licensee of a commercial broadcast station; (2) does not derive income from advertising; and (3) is dependent on subscriptions or contributions from the members of the community served for support.¹

The licensee bears the burden of documenting its eligibility for the waiver; otherwise, the regulatory fee is due. *Id.* Although your letter generally asserts that the stations meet criteria (1)-(3) above, there is no documentation supporting these assertions. Therefore, your request contains insufficient basis to grant relief with respect to the FY 2004 fees for these stations. Nevertheless, in light of your general assertions, if you wish, you may file a further request for relief with respect to the FY 2004 fees together with appropriate showings for these stations within 30 days from the date of this letter.

¹ *Implementation of Section 9 of the Communications Act, Assessment and Collection of Regulatory Fees for the 1994 Fiscal Year*; MD Docket No. 94-19, Memorandum Opinion and Order, 10 FCC Rcd 12759, 12761 para. 16 (1995).

Mr. Alan Greager

2.

If you have any questions concerning this matter, please contact the Revenue and Receivables Operations Group at (202) 418-1995.

Sincerely,

A handwritten signature in black ink, appearing to read "Mark A. Reger", written over a horizontal line.

 Mark A. Reger
Chief Financial Officer

FCC/MELLON

JUN 30 2005

Professional Antenna, Tower and Translator Service (PATTS)
P.O. Box 1738
Montrose, Colorado, 81401-1738
970-209-4784

June 26, 2005

Federal Communications Commission
Revenue & Receivables Group
445 12th Street S.W. Room 1A821
Washington, D.C. 20554

To Whom Concerned;

This letter is written in regard to translators K228AT, K232AR and K272AL under the control of Professional Antenna, Tower and Translator Service (PATTS), Montrose, CO, FRN #008607855.

And,

Billing received from the Federal Communications Commission for Regulatory Fees for translator K228AT (bill 05RE003742), translator K232AR (bill 05RE003335) and translator K272AL billing for which PATTS have no record.

The FM translators mentioned above are operated without advertising support and without support from the commercial broadcasting station. They are dependant on support from PATTS and the communities of Green River and Moab Utah.


In implementing the regulatory fee program, the Commission stated that it would waive its regulatory fees for any community-based translator station that:

- (1) is not licensed to, in whole or in part, and does not have a common ownership with, the licensee of a commercial broadcast station; (2) does not derive income from advertising; and (3) is dependent on subscriptions or contributions from members of the community served for support.

PATTS meet the criteria for community exemption and respectfully request the Federal Communication Commission waive the Regulatory Fees for the above mentioned translators as quickly as possible.

Upon doing so please inform the Media Bureau to cancel the red light regarding these bills to allow PATTS to continue business with the Federal Communications Commission.

Sincerely;


Alan Greager

Page 1 of 2

Copy:

FEDERAL COMMUNICATIONS COMMISSION

Washington, D. C. 20554

OCT 25 2005

OFFICE OF
MANAGING DIRECTOR

Steven A. Augustino, Esq.
Darius B. Withers, Esq.
Kelley Drye & Warren, LLP
1200 19th St., N.W.
Suite 500
Washington, D.C. 20036

Re: PT-1 Communications, Inc.
FY 2002 Regulatory Fee
Fee Control No. 00000RROG-05-053

Dear Counsel:

This letter responds to your request dated June 20, 2005, filed on behalf of PT-1 Communications, Inc. (PT-1) for a waiver of the fiscal year (FY) 2002 regulatory fee for interstate telecommunications service providers and the associated late payment penalty. Our records reflect that you have not paid the \$438,647.29 FY 2002 regulatory fee or the \$109,661.82 penalty for late payment of the regulatory fee. Your request for a waiver of the regulatory fees for FY 2002 is granted.

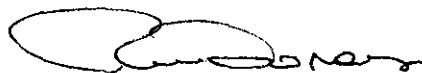
In your request, you recite that on February 2, 2001, "PT-1 discontinued its regulated operations through the sale of its telecommunications assets to IDT Communications [IDT]." You assert that "[s]ince that date, PT-1 has discontinued operations as a telecommunications service provider and has not generated any interstate telecommunications revenues." In a subsequent communication, you state that in selling its assets to IDT, PT-1 did not transfer its authorization to provide interstate telecommunications services and continues to hold that authorization today. You contend that "the Commission improperly based the [FCC Remittance Advice Bill for Collection, dated July 24, 2003, and associated FCC Form 159-W] . . . on estimated 2001 revenues, which were much higher than PT-1's actual 2001 interstate revenues." You assert that on March 9, 2001, PT-1 filed a voluntary petition for protection under the Federal Bankruptcy Code with the United States Bankruptcy Court, Eastern District of New York (Bankruptcy Court). You state that PT-1 was subject to the protection of the Bankruptcy Court from March 9, 2001 through January 2005. You submitted a copy of the bankruptcy filing, as well as a copy of the "Order Confirming Second Amended Joint Plan of Reorganization for PT-1 Communications, Inc., PT-1 Long Distance, Inc. and PT-1 Technologies, Inc.," dated November 23, 2004, from the United States Bankruptcy Court for the Eastern District of New York (Bankruptcy Court). You state that on March

7, 2002 and October 22, 2002, PT-1 "notified the Commission that it disputed the application of 2002 regulatory fees to PT-1."¹ You submitted a copy of both letters.²

The Commission has determined that it will waive regulatory fees for licensees who are bankrupt or are in receivership at the time the fees are due. *See Implementation of Section 9 of the Communications Act*, 10 FCC Rcd 12759, 12762 (1995). Based upon the evidence that you provide that PT-1 was in bankruptcy on the date the FY 2002 regulatory fee was due (i.e., September 25, 2002), we grant your request for waiver of the regulatory fee and associated late fee for that year.³

If you have any questions concerning this letter, please contact the Revenue and Receivables Operations Group at (202) 418-1995.

Sincerely,



Mark A. Reger
Chief Financial Officer

¹ Because of this notification, we do not consider the instant request to be untimely filed.

² See Letter from Rosalind Gaffney, PT-1 Communications, to Claudette Pride, FCC (dated Mar. 7, 2002) (given that PT-1 transferred its telecommunications assets to IDT on February 2, 2001, "[a]ny regulatory fee due for the year 2001 cannot be due from PT-1. . . [a]lso, please note on March 9, 2001, PT-1 file[d for bankruptcy] Any debts incurred for the period prior to that date must be resolved through the bankruptcy proceedings."); Letter from Rosalind Gaffney, PT-1 Communications, to FCC (dated Oct. 22, 2002) ("as of February 2, 2001, the debit card division assets of PT-1 . . . were transferred to IDT. . . [; s]ince ceasing debit card activity in 2001, PT-1 no longer had to file form 499-A. Since PT-1 is no longer in the prepaid business, it should not currently be charged the FCC regulatory fee."). We note that you erroneously state that the October letter is dated October 11, 2002.

³ We note that because the regulatory fee is waived due to bankruptcy, there is no penalty for late payment.

00000RROG-00-00-00

KELLEY DRYE & WARREN LLP

A LIMITED LIABILITY PARTNERSHIP

1200 19TH STREET, N.W.

SUITE 500

WASHINGTON, D.C. 20036

(202) 955-9600

NEW YORK, NY
TYSONS CORNER, VA
CHICAGO, IL
STAMFORD, CT
PARSIPPANY, NJ
BRUSSELS, BELGIUM

AFFILIATE OFFICES
JAKARTA, INDONESIA
MUMBAI, INDIA

FACSIMILE
(202) 955-9792
www.kelleydrye.com

STEVEN A. AUGUSTINO
DIRECT LINE: (202) 955-9608
EMAIL: saugustino@kelleydrye.com

June 20, 2005

VIA HAND DELIVERY

Mr. Andrew S. Fishel
Managing Director
Office of Managing Director
Federal Communications Commission
445 12th Street, S.W.
Washington, D.C. 20054

**Re: Petition for Waiver of Regulatory Fees for Fiscal Year 2002
PT-1 Communications Inc.; FCC Bill Number FY03CB0231**

Dear Mr. Fishel:

On behalf of PT-1 Communications, Inc. ("PT-1" or "the Company"), we hereby submit this petition for Waiver of Application of Regulatory Fees, and associated late charge penalties, for Fiscal Year 2002.¹ As described in more detail herein, due to financial hardship suffered by PT-1 in 2001 and years thereafter, the Company was unable to meet its obligation to pay the FCC Regulatory Fee.

The Commission's application of regulatory fees for 2002 with regard to PT-1 is improper for a myriad of reasons. First, on February 2, 2001, PT-1 discontinued its regulated operations through the sale of its telecommunications assets to IDT Communications. Since that date, PT-1 has discontinued operations as a telecommunications service provider and has not generated any interstate telecommunications revenues. On March 7, 2002 and October 11, 2002, PT-1 notified the Commission that it disputed the application of 2002 regulatory fees to PT-1.²

¹ A copy of the invoice to PT-1 for Fiscal Year 2002 and its associated Form 159-W are attached hereto at *Exhibit 1*.

² In addition, it appears that the Commission based its calculations on year 2000 total revenues of the Company, rather than on 2001 revenues. Please note the letters attached as *Exhibit 2*.

KELLEY DRYE & WARREN LLP

Mr. Andrew S. Fishel
Managing Director
June 20, 2005
Page 2

In addition, PT-1 believes that even if regulatory fees applied to it, the Commission improperly based the invoice on estimated 2001 revenues, which were much higher than PT-1's actual 2001 interstate revenues. Therefore, PT-1 did not owe 2002 regulatory fees, and if it did, would have owed substantially less than the Commission estimated.

Second, on March 9, 2001, PT-1 filed a voluntary petition for protection under the Federal Bankruptcy Code. This filing is significant for two reasons. First, all debts of the debtor PT-1 Communications became subject to the jurisdiction of the bankruptcy court, and must be disposed of according to the debtor's plan of reorganization. A copy of the court order approving PT-1's Second Amended Plan or Reorganization is attached as *Exhibit 3*. Second, as you are likely aware, the Commission waives a carrier's obligations to pay regulatory fees upon a showing of financial hardship.³ More specifically, the Commission has determined that evidence of a carrier's bankruptcy serves as sufficient basis to establish financial hardship.⁴

In closing, for one or all of the reasons explained above, we request that the Commission immediately cancel the application of FCC regulatory fees, and associated late charge penalties, for Fiscal Year 2002 to PT-1.

As always, please feel free to contact the undersigned if you have any questions or would like to receive further information in this matter.

³ See *In the Matter of Implementation of Section 9 of the Communications Act, Assessment and Collection of Regulatory Fees for the 1994 Fiscal Year*, Report and Order, 9 FCC Rcd 5333, 5346 (1994) ("Regulatory Fee Order"), recon. granted, 10 FCC Rcd 12759, 12762 (1995) ("Regulatory Fee Recon Order").

⁴ See, e.g., *Network Access Solutions Corp.*, Letter Order, dated June 7, 2004; see also, *PC Landing Corp.*, Letter Order, dated Jan. 13, 2004.

KELLEY DRYE & WARREN LLP

Mr. Andrew S. Fishel
Managing Director
June 20, 2005
Page 3

Enclosed please find two (2) additional copies of this letter. Please date-stamp the duplicate of this letter and return in the self-addressed, postage prepaid envelope.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Steven A. Augustino". The signature is stylized with a large, sweeping initial "S" and a cursive "Augustino".

Steven A. Augustino
Darius B. Withers
Counsel to PT-1 Communications, Inc.

Attachments (as noted)

cc: Claudette Pride, Office of Managing Director (via e-mail)
Regina Dorsey, Office of Managing Director (via e-mail)

Adams

FEDERAL COMMUNICATIONS COMMISSION
Washington, D. C. 20554

OFFICE OF
MANAGING DIRECTOR

November 9, 2005

Bruce D. Jacobs
David S. Konczal
Shaw Pittman LLP
2300 N Street, N.W.
Washington, D.C. 20037

RE: Request for Refund of Filing Fee in
Connection with V-band Satellite
Application
Fee Control No. 9709298210188001

Dear Counsel:

This is in response to the request submitted by Spectrum Astro, Inc. ("Spectrum Astro") for a refund of \$425,225 in filing fees.¹ Spectrum Astro paid these fees in connection with its applications to launch and operate five geostationary ("GSO") fixed satellite service ("FSS") satellites in the 40/50 GHz bands ("V-band"), filed September 26, 1997, in response to the announcement of a processing round in 1997. Spectrum Astro withdrew its V-band application in March 2004.² Your request for a refund is denied.

In your letter, you argue that Spectrum Astro is entitled to a refund of its filing fee because the Commission has not processed its application.³ You state that pursuant to Sections 1.1117(a) and 1.1113(a)(5) of the Commission's rules, the Managing Director has the discretion to waive a filing fee and issue a refund, and that good cause exists for doing so.⁴ Citing the policy in the *First Space Station Licensing Reform Order*,⁵ which provides that a filing fee for an application for a GSO-like satellite will be refunded if the applicant voluntarily withdraws the application before it is placed on Public Notice, you argue that Spectrum Astro is eligible for a refund of its filing fee, since its application was never placed on Public Notice.⁶ You also state that since "filing fees are intended to recover the costs associated with processing an application . . . a filing fee is appropriate in this case because the Bureau has not incurred any costs in processing Spectrum Astro's application since it was filed over six years ago."⁷

¹ Letter from Bruce D. Jacobs and David S. Konczal, Shaw Pittman, to Andrew S. Fishel (March 12, 2004) (Jacobs Letter).

² Spectrum Astro's request for refund was filed on March 12, 2004, concurrently with its request for dismissal of its V-band GSO applications.

³ Jacobs Letter at 2-3.

⁴ *Id.*

⁵ Amendment of the Commission's Space Station Licensing Rules and Policies, *First Report and Order and Further Notice of Proposed Rulemaking*, 18 FCC Rcd 10,760, para. 116 (2003)

⁶ Jacobs Letter at 3.

⁷ *Id.*

In addition, you state that pursuant to Section 1.1113(a)(4) of the Commission's rules, the Managing Director can issue a filing fee refund "when the Commission adopts new rules that nullify applications already accepted for filing, or new law or treaty would render useless a grant or other positive disposition of the application."⁸ You argue that "the Commission has refunded filing fees to applicants [who] withdrew their applications after the Commission adopted new procedural or operational rules,"⁹ and that a refund is warranted here because "the Commission's new satellite licensing policies have fundamentally altered the expectations Spectrum Astro had when it filed its V-band application and have substantially increased [the] risk of prosecuting [its] application." Specifically, you state that the Commission's decisions in the *First Space Station Licensing Reform Order* to require licensees of new GSO satellites to post a \$5 million bond per satellite and to meet additional milestones entitle Spectrum Astro to a refund of its filing fee pursuant to Rule 1.1113(a)(4).

We disagree with your assertion that Spectrum Astro is entitled to a refund of its filing fee because the Commission has not processed its application. First, we note that the fee refund provision adopted in the *First Space Station Licensing Reform Order* is not applicable to Spectrum Astro's V-band applications. The Commission adopted two new licensing procedures in the *Order*, one of which is called the first-come, first-served approach, in which applications are placed in a single queue and reviewed in the order in which they are filed.¹⁰ This approach applies to new GSO satellite applications other than mobile satellite service (MSS) satellite systems (GSO-like applications).¹¹ The Commission adopted a rule in the *Order* to allow for the return of satellite license application fees for applicants under the first-come first-served procedure if the applicant voluntarily withdraws its application before it is placed on public notice.¹² The Commission, however, stated that the fee refund provision was not applicable to any of the pending V-band GSO-like license requests¹³, which would include Spectrum Astro's application. The Commission explained that the fee refund provision adopted in the *Order* was intended to "enable an applicant in a first-come, first-served procedure to obtain a fee refund in cases where an earlier-filed application would make it impossible to grant its application," and that none of the pending applications would be considered "pursuant to a first-come, first-served procedure."¹⁴

We also disagree with your assertion that good cause exists for a waiver in this case "because the Bureau has not incurred any costs in processing Spectrum Astro's application since it was filed over six years ago." As you state, the Commission has

⁸ *Id.* at 3-4, citing 47 C.F.R. § 1.1113(a)(4).

⁹ *Id.* at 4.

¹⁰ *Space Station Licensing Reform Order* at 10,792-10,822, paras. 71-159.

¹¹ *See id.* For new non-geostationary satellite orbit (NGSO) satellite system applications, and for GSO MSS applications, the Commission adopted a modified processing round procedure. Under this approach, the Commission will announce a cut-off date for a processing round, review each application filed in the processing round to determine whether the applicant is qualified to hold a satellite license, and divide the available spectrum equally among the qualified applicants. *See id.* at 10,782-86, paras. 48-55.

¹² *Id.* at 10,807, para. 116. *See also* 47 C.F.R. § 1.1113(d).

¹³ *Id.* at 10,866, para. 282.

¹⁴ *Id.*

found that “the fees charged are based primarily on the costs to the Commission of providing those services”¹⁵ and “the very core of [the fee collection] effort is to reimburse the government – and the general public – for the regulatory services provided to certain members of the public.”¹⁶ But your assertion that “filing fees are intended to recover the costs associated with processing an application” (*emphasis added*) is not correct.

Application fees are generally intended to represent the average cost of application processing services rather than individually-determined costs. *See Establishment of a Fee Collection Program to Implement the Provisions of the Consolidated Omnibus Budget Reconciliation Act of 1985, Report and Order*, 2 FCC Rcd. 947, para. 14 (1987) (“Because the Commission incurs a cost regardless of the final result to the applicant, we proposed to Congress [and Congress agreed] that these fixed processing costs should be recovered in equal amounts from each applicant through fees. We can find no justification in the statute or the legislative history for apportioning fees according to the actual work done on any particular application”). The Commission has subsequently reaffirmed this principle. *See PanAmSat Corp.*, 19 FCC Rcd 18,495, 18,499, paras. 5 and 7 (2004) and *Lockheed Martin Corp.*, 16 FCC Rcd 12805, 12807, para. 5 (2001). In *PanAmSat*, the Commission reiterated “there is ‘no justification in the statute or legislative history for apportioning fees in accordance with the actual work done on any particular application’”¹⁷ and further stated that “[i]nsofar as language in [past] OMD [Office of Managing Director] rulings suggests that fee relief may be based on any reduced processing burdens, we clarify that consistent with congressional intent and established agency precedent, good cause for fee waiver or deferral requires a showing of compelling and extraordinary circumstances.”¹⁸ Thus, Congress and the Commission have made clear that the existence of “compelling and extraordinary circumstances” -- not the amount of resources expended in an individual case -- should be the touchstone for determining whether a fee refund should be granted. Spectrum Astro has not demonstrated the existence of such compelling and extraordinary circumstances in this case.

We also disagree with your assertion that the Commission’s decisions in the *First Space Station Licensing Reform Order* to require licensees of new GSO satellites to post a \$5 million bond per satellite and to meet additional milestones entitle Spectrum Astro to a refund of its filing fee pursuant to Rule 1.1113(a)(4). Section 1.1113(a)(4) provides that the Commission will issue refunds for application fees “when the Commission adopts new rules that nullify applications already accepted for filing, or new law or treaty

¹⁵ Jacobs Letter at 3, *citing* Policy and Rules Concerning the Interstate, Interexchange Marketplace, *Order on Reconsider*, 12 FCC 15014 (August 20, 1997) at ¶ 86.

¹⁶ *Id.*, *citing* Establishment of a Fee Collection Program to Implement the Provisions of the Consolidated Omnibus Budget Reconciliation of 1985, *Report and Order*, 2 FCC Rcd 947 (February 17, 1987), at para. 7.

¹⁷ *PanAmSat Corp.*, *citing* *Lockheed Martin Corp.*, 16 FCC Rcd. at 12807, para. 5 and 1987 Fee Order, 2 FCC Rcd at 949.

¹⁸ *Id.* at para. 8. OMD also recently rejected this argument as a basis for providing refunds for applicants who withdrew their V-band applications. *See* Letter to Gerald Musarra, Vice President Trade and Regulatory Affairs, Lockheed Martin Corporation, from Mark A. Reger (May 23, 2005) at 4 and Letter to Peter A. Rohrbach, Karis A. Hastings, and David L. Martin, Counsel for SES AMERICOM, Inc., from Mark A. Reger (March 10, 2005) at 9-10.